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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,175	01/09/2001	Pang-Chia Lu	10234-2	1308

23455 7590 06/14/2006

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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,175

Applicant(s)

LU ET AL.

Examiner

Victor S. Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8-27,29 and 31-38 is/are pending in the application.
- 4a) Of the above claim(s) 8-27 and 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,29,31-36 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Introduction

1. In view of the Decision on Appeal by the Board of Patent Appeals and Interferences (BPAI), mailed on 3/10/2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below. In particular, the Examiner wishes to point out that a careful review of the prosecution history shows that the original scope of the claimed invention was directed to a multilayered opaque film having a voided core layer (see claims filed 1/9/2001), which was completely changed to a different and patentably distinct invention of a multilayered opaque film having a core layer which is substantially void-free, through two amendments (5/2/2003 and 12/1/2003) which first added a Markush group to include both embodiments, then deleted the original embodiment. The Examiner apologizes for inadvertently overlooked the need for a new search to address the drastic change in claimed embodiment.

A Director has approved of reopening prosecution by signing below. The reopening is necessary for the consideration of matters not already adjudicated.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Rejections not maintained are withdrawn. In particular, the rejections over Park et. al. (US 4758462) and Wilkie et al. (US 5443915) in section 4 of the Office action mailed 9/22/2004 is withdrawn, and Applicants' arguments are moot in view of the new grounds of rejection as follows.

Claim Objections

4. Claim 29 is objected to because of the following informalities:

As pointed out by the BPAI, claim 29 is an improper dependent claim since it depends on previously canceled claim 2 (Decision, page 1, footnote). Appropriate correction is required. For the purpose of expediting prosecution, it is presumed that claim 29 is dependent upon claim 1 in the present Office action.

Further, since amended claim 4 is a duplicate of claim 3, cancellation is suggested.

Claim Rejections - 35 USC § 102

5. Claims 1, 3, 4, 31-35 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 04-367449 (English translation).

JP '449 (PAJ) relates to a multiple layered (multilayered) structure for packaging (page 2, [Purpose]), such as co-extruded films or sheets (paragraph 0018). The multilayered structure has pearly luster with a pale color tone (paragraph 0001). The outer (skin) layers are a mixture (blend) of thermoplastic resin, 2-3 wt% pearl essence, and 0.01-0.06 wt% titanium pigment (paragraph 0009). A transparent film forming thermoplastic synthetic resin is used to form the outer layers, preferably polypropylene, polyethylene and the like (paragraph 0011). The inner (core) layer is formed from film forming thermoplastic synthetic resins, such as polyethylene, polypropylene, etc., and preferably the same resin is used for both inner and outer layers for a good adhesion between the layers (paragraph 0014). The inner (core) layer is non-transparent (opaque) by incorporating at least 2-3 wt% titanium white relative to thermoplastic resin (paragraphs 0009 and 0016). In an example, titanium oxide is used as titanium white for the

inner layer (paragraph 0026). It should be noted that JP '449 teaches that opacity is derived from titanium white, and nowhere JP '449 discloses that the film is voided.

For claims 1, 3 and 4, JP '449 teaches all the elements as claimed, claims lack novelty.

For claims 31-35 and 38, in the absence of any difference in the compositions of the transition and skin layers, the outer layer of JP '449 read upon both the transition and layers as claimed, in particular, when one considers that JP '449 expressly teaches that preferably the same thermoplastic resin is used for both the outer and inner layers for a good adhesion between the layers. In other words, the interfacing region of the skin layer reads on the transition layer as claimed.

Claim Rejections - 35 USC § 103

6. Claims 5 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04-367449 (Patent Abstracts of Japan (PAJ) and Derwent Abstract) in view of Schuhmann et al. (US 5277970).

The teachings of JP '449 are again relied upon as set forth above.

For claims 5 and 29, JP '449 lacks a teaching that the polypropylene core layer is an isotactic polymer. However, it is noted that Schuhmann's invention relates to a multilayered white (opaque) polypropylene film. The film has an at least three-layered build-up and has an intermediate (core) layer comprised of propylene polymers comprising 0 to 25% by weight of titanium dioxide, relative to the total weight of the intermediate layer (abstract). Suitable polymers for the core layer include isotactic polypropylene and mixture of propylene with other polyolefins, such as HDPE and LDPE, etc. (column 2, lines 48-66). As such, in the absence of

unexpected results, it would have been obvious to one of ordinary skill in the art of opaque film to select either an isotactic polypropylene or a polymer mixture comprising HDPE or LDPE to make the film of JP '449, because to one of ordinary skill in the art of opaque film, the selection of a known material based on its suitability for its intended use supported a *prima facie* obviousness determination. See MPEP § 2144.07.

7. Claim 36 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 04-367449 (Patent Abstracts of Japan (PAJ) and Derwent Abstract).

The teachings of JP '449 are again relied upon as set forth above.

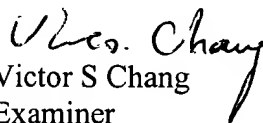
For claim 36, JP '449 is silent about the exact amount of the opacity or transmission of the skin layer. However, since the JP '449 does teach substantially the same subject matter (an multilayered opaque polypropylene film or sheet having a small amount of coloring agent in the outer skin layers), and for the same use (a packaging film), it is the Examiner's position that a suitable opacity or transmission of the outer skin layer is either anticipated, or obviously provided by practicing the invention of prior art. It should be noted that where the claimed and prior art products are shown to be identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a *prima facie* case of either anticipation or obviousness has been established. See MPEP § 2112.01.

Conclusion


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

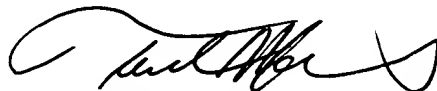
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Victor S Chang
Examiner
Art Unit 1771

4/4/2006

Approved

Jacqueline M. Stone, Director
Technology Center 1700/2900


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